

RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA

Rules 101(b)(4), 133, 134, 308, 320, 321 & 600(b)

[Amended by the Board of Governors June 10, 2000, effective July 1, 2000]

The proposed amendments to the above-referenced Rules of Procedure are set forth below. Strikeout (~~Sample~~) indicates that current text is being deleted while redlining (**Sample**) indicates that new text is being added.

RULE 101. NOTICE OF DISCIPLINARY CHARGES.

[Subsections (a) and (c) remain unchanged.]

(b) The notice of disciplinary charges shall:

[Paragraphs (1) through (3) and paragraph (5) remain unchanged.]

(4) Contain the following language in capital letters at or near the beginning of the notice of disciplinary charges:

“IF YOU FAIL TO FILE AN ANSWER TO THIS NOTICE WITHIN THE TIME ALLOWED BY STATE BAR RULES, INCLUDING EXTENSIONS, OR IF YOU FAIL TO APPEAR AT THE STATE BAR COURT TRIAL, (1) YOUR DEFAULT SHALL BE ENTERED, (2) YOU SHALL BE ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR AND WILL NOT BE PERMITTED TO PRACTICE LAW UNLESS THE DEFAULT IS SET ASIDE ON MOTION TIMELY MADE UNDER THE RULES OF PROCEDURE OF THE STATE BAR, (3) YOU SHALL NOT BE PERMITTED TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS YOUR DEFAULT IS SET ASIDE, AND (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.

“STATE BAR RULES REQUIRE YOU TO FILE YOUR WRITTEN RESPONSE TO THIS NOTICE WITHIN TWENTY DAYS AFTER SERVICE.

“IF YOUR DEFAULT IS ENTERED AND THE DISCIPLINE IMPOSED BY THE SUPREME COURT IN THIS PROCEEDING INCLUDES A PERIOD OF ACTUAL SUSPENSION, YOU WILL REMAIN SUSPENDED FROM THE PRACTICE OF LAW FOR AT LEAST THE PERIOD OF TIME SPECIFIED BY THE SUPREME COURT. IN ADDITION, THE ACTUAL SUSPENSION WILL CONTINUE UNTIL YOU HAVE REQUESTED, AND THE STATE BAR COURT HAS GRANTED, A MOTION FOR TERMINATION OF THE ACTUAL SUSPENSION. AS A CONDITION FOR TERMINATING THE ACTUAL SUSPENSION, THE STATE BAR COURT MAY PLACE YOU ON PROBATION AND REQUIRE YOU TO COMPLY WITH SUCH CONDITIONS OF PROBATION AS THE STATE BAR COURT DEEMS APPROPRIATE. SEE RULE 205, RULES OF PROCEDURE FOR STATE BAR COURT PROCEEDINGS.”

RULE 133. STIPULATIONS AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION.

- (a) A proposed stipulation as to facts, conclusions or law, and disposition shall set forth each of the following:

[Paragraphs (1) through (11) remain unchanged.]

- (12) a statement that the respondent has been advised in writing of any pending investigations or proceedings not resolved by the stipulation except for investigations, if any, related to investigations by criminal law enforcement agencies, identified by investigation case number or proceeding case number, and complaining witness name(s), if any. Such information shall not be set forth in the stipulation, but the stipulation shall recite that all such information has been provided to the respondent in a separate document, ~~as of a specified disclosure date.~~ The ~~specified disclosure date shall be~~ **provided to the respondent** not more than thirty (30) days before the stipulation is ~~filed~~ **received by the Court.**

RULE 134. STIPULATIONS AS TO DISPOSITION.

[Subsections (a) and (b) remain unchanged.]

- (c) Stipulations as to disposition shall set forth each of the following:

[Paragraphs (1) through (7) remain unchanged.]

- (8) a statement that the respondent has been advised in writing of any pending investigations or proceedings not resolved by the stipulation except for investigations, if any, related to investigations by criminal law enforcement agencies, identified by investigation case number or proceeding case number, and complaining witness name(s), if any. Such information shall not be set forth in the stipulation, but the stipulation shall recite that all such information has been provided to the respondent in a separate document ~~as of a specified disclosure date~~ not more than thirty (30) days before the stipulation is ~~filed~~ **received by the Court.**

RULE 300. PETITION FOR INTERLOCUTORY REVIEW AND FOR REVIEW OF SPECIFIED MATTERS.

[Subsections (a) through (d) remain unchanged.]

- (e) Response. Unless otherwise ordered by the Review Department, no response to a petition for interlocutory review is required unless the Review Department grants review. If review is granted by the Review Department, the responding party may file and serve a response within ten (10) days of the service of the order granting review. ~~The responding party shall file the original and three copies of the response with the Clerk and shall serve copies of the response on all parties and upon the hearing judge who issued the order from which interlocutory review is sought.~~
- (f) Filing and Service of Subsequent Pleadings. Following the filing of the petition for interlocutory review, any party filing a pleading with the Clerk, including the response to the petition pursuant to paragraph (e) of this rule, shall file the original and three copies of such pleading with the Clerk and shall serve copies of such on all parties pursuant to rule 61 and upon the hearing judge who issued the order from which interlocutory review is sought.

[Subsections (f) through (k) remain unchanged, but are re-lettered as subsections (g) through (l).]

RULE 308. SUMMARY REVIEW PROGRAM.

[Subsection (a) remains unchanged.]

- (b) ~~Unless the Review Department determines pursuant to paragraph (i) that a matter for which summary review has been requested is not appropriate for summary review, any issue or contention not raised by the parties in the briefs filed pursuant to paragraph (f) shall be waived.~~
- (c) ~~The decision of the hearing judge shall be the final State Bar Court decision as to all material findings of fact and as to all issues or contentions not raised in the briefs filed pursuant to paragraph (f) of this rule.~~

[Subsections (b) through (h) remain unchanged, but are re-lettered as subsections (d) through (j).]

**RULE 320. EXERCISE OF POWERS DELEGATED BY
SUPREME COURT.**

- (a) State Bar Court actions authorized under rules 951(a) through 951(e), inclusive, California Rules of Court, shall be taken by the Review Department, except that (1) any modification of probation pursuant to rule 951(c), California Rules of Court, shall instead be acted upon initially by a hearing judge as provided in rules 550-554-; and (2) a motion to extend the time within which a member must take and pass a professional responsibility examination pursuant to rule 950(b), California Rules of Court, which is made prior to the expiration of the period of time during which the member was ordered to take and pass the examination, shall instead be acted upon by a hearing judge.

[Subsection (b) remains unchanged.]

**RULE 321. MOTIONS FOR RELIEF UNDER RULE 951,
CAL. RULES OF COURT.**

- (a) (1) Motions to the Review Department or the Hearing Department, as provided in rule 320(a) for relief under California Rules of Court, rule 951(a) (to delay or stay interim suspension), 951(b) (to extend time to take and pass professional responsibility examination, or vacate suspension for failure to do so) or 951(e) (to delay or stay of disciplinary suspension ordered by Supreme Court), shall be filed with the Clerk of the State Bar Court within fifteen (15) days after the filing of the suspension order (if any), shall show good cause for the relief requested as provided in the applicable paragraph of this rule, and shall show proof of service pursuant to the rule for service of subsequent pleadings (rule 61). Such service shall be made on the Deputy Chief Trial Counsel in the appropriate venue.

[Paragraphs (2) and (3) remain unchanged.]

[Subsection (b) remains unchanged.]

- (c) A member seeking, under rule 951(b), California Rules of Court, to extend the time previously ordered for taking and providing proof of passage of a professional responsibility examination or to vacate the member's suspension for failing to take and pass the ordered examination should include with any motion made to the Review Department, or to the Hearing Department as provided in rule 320(a), the following information as part of the member's

showing of good cause for relief:

[Paragraphs (1) through (5) remain unchanged.]

[Subsection (d) remains unchanged.]

RULE 600. NATURE; INITIAL PLEADING.

[Subsection (a) remains unchanged.]

- (b) The initial pleading in a conviction proceeding is a notice of hearing on conviction filed and served by the Clerk following the issuance of an order of reference by the State Bar Court or the Supreme Court. A copy of the order of reference shall be attached as an exhibit to the notice of hearing on conviction. The notice of hearing on conviction shall include the following notice: ~~“NOTICE - DEFAULT PROCEDURE. Your default may be entered for failure to file a written response to this notice of hearing on conviction within twenty (20) days after service. If your default is entered, you will lose the right to participate in the proceedings pursuant to the attached order of reference, unless and until your default is set aside on motion timely made under the prescribed grounds.”~~

~~“IF YOU FAIL TO FILE AN ANSWER TO THIS NOTICE WITHIN THE TIME ALLOWED BY STATE BAR COURT RULES, INCLUDING EXTENSIONS, OR IF YOU FAIL TO APPEAR AT THE STATE BAR COURT TRIAL, (1) YOUR DEFAULT SHALL BE ENTERED, (2) YOU SHALL BE ENROLLED AS AN INVOLUNTARY INACTIVE MEMBER OF THE STATE BAR AND WILL NOT BE PERMITTED TO PRACTICE LAW UNLESS THE DEFAULT IS SET ASIDE ON MOTION TIMELY MADE UNDER THE RULES OF PROCEDURE OF THE STATE BAR, (3) YOU SHALL NOT BE PERMITTED TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS YOUR DEFAULT IS SET ASIDE, AND (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.~~

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